

## Message Text

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64

ACTION EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20 OMB-01

TAR-02 SWF-02 AGR-20 AID-20 COME-00 LAB-06 OIC-04

SIL-01 STR-08 CIEP-02 CEA-02 AF-10 EA-11 EUR-25

NEA-14 INT-08 COA-02 DLOS-07 DRC-01 /247 W

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O R 250207Z JUN 74

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 2400

DEPT OF TREASURY PRIORITY

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

UNCLAS MEXICO 5338

E.O. 11652: N/A

TAGS: EGEN, UNCTAD

SUBJECT: UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES

TREASURY PASS BRADFIELD

1. AS OF MID-DAY JUNE 24, WEEKEND OF NEGOTIATING IN CASTANEDA GROUP HAS PRODUCED FOLLOWING TEXTS. PASSAGES IN PARENTHESES ARE SOURCES OF SPECIAL DISAGREEMENT.

2. QUOTE "EVERY STATE HAS (FULL) PERMANENT SOVEREIGNTY OVER ITS (NATURAL WEALTH AND RESOURCES) (WEALTH AND NATURAL RESOURCES)."

B: NON-INCLUSION. 77: "WHETHER ON LAND WITHIN ITS INTERNATIONAL BOUNDARIES AS WELL AS THOSE IN THE (TERRITORIAL) SEA OR CONTINENTAL SHELF (WITHIN THE LIMITS OF ITS NATIONAL UNCLASSIFIED

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JURISDICTION.)"

"...AND CONSEQUENTLY HAS THE INALIENABLE RIGHT (SUBJECT TO THE PERFORMANCE OF ITS INTERNATIONAL OBLIGATIONS) TO THE FULL EXERCISE OF ITS SOVEREIGNTY FREELY AND EFFECTIVELY TO DISPOSE OF THEM INCLUDING, AS AN EXPRESSION OF ITS SOVEREIGNTY, THE RIGHT OF NATIONALIZATION."

"THIS RIGHT INCLUDES THE RIGHT TO NATIONALIZATION (OR TO THE TRANSFER OF OWNERSHIP TO ITS NATIONALS) AS AN EXPRESSION OF ITS SOVEREIGNTY (FOR A PUBLIC PURPOSE AND WITHOUT DISCRIMINATION.)"

"(THE EXERCISE OF THIS RIGHT (IN RELATION TO THE PROPERTY OF FOREIGN NATIONALS) INCLUDING) THE PAYMENT (TO THE FOREIGN INTEREST CONCERNED) OF (POSSIBLE) (JUST) (APPROPRIATE) (PROMPT, ADEQUATE AND EFFECTIVE) COMPENSATION SHALL BE IN ACCORDANCE WITH (THE DOMESTIC LAW OF THE STATE TAKING SUCH MEASURES) (AND)V

( A) ALL APPLICABLE LAW OR  
B) RELEVANT LAW OR  
C) LAW OR  
D) INTERNATIONAL LAW OR  
E) RELEVANT INTERNATIONAL OBLIGATIONS OR  
F) GENERALLY RECOGNIZED AND ACCEPTED INTERNATIONAL PRINCIPLES AND NORMS OR  
G) INTERNATIONAL LAW AS DEVELOPED FROM TIME TO TIME BY THE INTERNATIONAL COMMUNITY)"

"IN CASES WHERE NO SOLUTION ON THE QUESTION OF COMPENSATION HAS BEEN ARRIVED AT, RECOURSE WILL BE HAD TO THE NATIONAL JURISDICTION OF THE NATIONALIZING STATE, UNLESS THERE IS AGREEMENT (BETWEEN (THE STATES) (THE PARTIES) CONCERNED) TO SEEK A SETTLEMENT THROUGH OTHER PEACEFUL MEANS ON THE BASIS OF THE SOVEREIGN EQUALITY OF STATES AND IN ACCORDANCE WITH THE PRINCIPLE OF FREE CHOICE OF MEANS."

B: NON-INCLUSION 77: "EVERY STATE HAS THE RIGHT AND DUTY

TO TAKE ALL EFFECTIVE MEASURES, INTER ALIA, THROUGH THE UNCLASSIFIED

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FULL EXERCISE OF PERMANENT SOVEREIGNTY OVER ALL ITS NATURAL RESOURCES, TO PUT AN END TO ALL FORMS OF FOREIGN OCCUPATION, APARTHEID, RACIAL DISCRIMINATION COLONIAL, NEO-COLONIAL IAND ALIEN DOMINATION AND EXPLOITATION."

"EVERY STATE HAS THE RIGHT TO REGULATE AND CONTROL FOREIGN INVESTMENT WITHIN ITS NATIONAL JURISDICTION IN ACCORDANCE WITH ITS LAWS AND REGULATIONS AND IN CONFORMITY WITH ITS

DEVELOPMENT OBJECTIVES AND PRIORITIES (AND ITS INTERNATIONAL OBLIGATIONS.)"

B: NON-INCLUSION. 77: "NO STATE WHOSE NATIONALS INVEST IN A FOREIGN COUNTRY SHALL DEMAND PRIVILEGED TREATMENT FOR SUCH INVESTORS." OR

"NO STATE SHALL BE REQUIRED TO GRANT PRIVILEGED TREATMENT TO FOREIGN INVESTORS."

JAPAN: "EVERY STATE SHALL ENSURE THAT FOREIGN INVESTORS ARE TREATED EQUITABLY AND EQUALLY REGARDLESS OF THEIR NATIONALITY." 77: NON-INCLUSION

B: "EVERY STATE HAS THE RIGHT TO REGULATE AND SUPERVISE THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS WITHIN ITS JURISDICTION BY TAKING MEASURES TO ENSURE THAT SUCH CORPORATIONS COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS. IN EXERCISING THIS RIGHT, EVERY STATE SHALL TREAT TRANSNATIONAL CORPORATIONS EQUITABLY AND IN A NON-DISCRIMINATORY FASHION, AVOIDING ARBITRARY ACTIONS, AND OTHERWISE OBSERVING APPLICABLE INTERNATIONAL OBLIGATIONS. TRANSNATIONAL CORPORATIONS SHALL RESPECT THE SOVEREIGNTY AND LAWS OF THE COUNTRIES IN WHICH THEY OPERATE, REFRAINING FROM ANY INTERVENTION IN THEIR INTERNAL AFFAIRS.

STATES SHALL COOPERATE IN GOOD FAITH TO RESOLVE CONFLICTS OF JURISDICTION IN THE APPLICATION OF THEIR LAW TO TRANSNATIONAL CORPORATIONS, DUE REGARD BEING PAID TO APPLICABLE INTERNATIONAL OBLIGATIONS AND TO THE INTERESTS OF EACH COUNTRY CONCERNED." 77: "EVERY STATE HAS THE RIGHT TO REGULATE AND CONTROL THE TRANSNATIONAL CORPORATIONS OPERATING WITHIN UNCLASSIFIED

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ITS NATIONAL JURISDICTION IN ACCORDANCE WITH ITS LAWS, RULES AND REGULATIONS AND TO TAKE MEASURES TO ENSURE THAT SUCH CORPORATIONS COMPLY FULLY WITH SUCH LAWS, RULES AND REGULATIONS, CONFORM WITH ITS NATIONAL ECONOMIC AND SOCIAL POLICIES AND REFRAIN FROM ANY INTERVENTION IN ITS INTERNAL AFFAIRS. ALL STATES SHOULD COOPERATE IN THE EXERCISE OF THIS RIGHT."

UNATTRIBUTED PROPOSAL: "EVERY STATE HAS THE RIGHT TO REGULATE AND SUPERVISE THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS WITHIN ITS NATIONAL JURISDICTION AND TO TAKE MEASURES TO ENSURE THAT SUCH ACTIVITIES COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS, CONFORM WITH ITS NATIONAL ECONOMIC AND SOCIAL POLICIES AND REFRAIN FROM ANY INTERVENTION IN ITS INTERNAL AFFAIRS. EVERY STATE SHALL ENSURE THAT TRANS-

NATIONAL CORPORATIONS ENJOY WITHIN ITS NATIONAL JURISDICTION THE SAME RIGHTS AND FULFILL THE SAME OBLIGATIONS AS ANY OTHER FOREIGN PERSON. ALL STATES SHOULD COOPERATE IN GOOD FAITH WITH RESPECT TO THE APPLICATION OF THEIR LAWS TO TRANSNATIONAL CORPORATIONS." (NOTE 1)

NOTE (1) THIS TEXT HAS BEEN DISCUSSED BUT NOT YET AGREED IN WHOLE OR IN PART.

B: NON-INCLUSION. 77: "NO STATE MAY BE SUBJECTED TO ECONOMIC, POLITICAL OR ANY OTHER TYPE OF COERCION TO PREVENT THE FREE AND FULL EXERCISE OF THESE INALIENABLE SOVEREIGN RIGHTS MENTIONED ABOVE. ANY ACTION DIRECTED AGAINST THESE RIGHTS SHALL BE CONSIDERED A VIOLATION OF THE UN CHARTER AND COULD CONSTITUTE A THREAT TO PEACE AND SECURITY."

"NO STATE MAY USE OR ENCOURAGE THE USE OF ECONOMIC, POLITICAL OR ANY OTHER TYPE OF MEASURES TO COERCE ANOTHER STATE IN ORDER TO OBTAIN FROM IT THE SUBORDINATION OF THE EXERCISE OF ITS SOVEREIGN RIGHTS AND TO SECURE FROM IT ADVANTAGES OF ANY KIND." (NOTE 1)

NOTE (1) "B" GROUP DOES NOT AGREE TO THE INCLUSION OF THIS LANGUAGE IN THE PRESENT SECTION BUT IS WILLING TO ACCEPT ITS INCLUSION AS A GENERAL PROVISION ELSEWHERE IN THE CHARTER. THE GROUP OF 77 IS ALSO WILLING TO ACCEPT SUCH INCLUSION AS A GENERAL PROVISION ELSEWHERE IN THE CHARTER ON THE UNDERSTAND-  
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ING THAT IT DOES NOT SUBSTITUTE FOR THE PROPOSAL OF THE GROUP OF 77 ABOVE. UNQUOTE  
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## Message Attributes

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**To:** STATE TRSY  
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